

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to medical assistance eligibility and payment and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 75, “Conditions of Eligibility,” and Chapter 80, “Procedure and Method of Payment,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.3.

Purpose and Summary

The Department is aligning administrative rules with current policy and federal regulations in several areas. The proposed rules:

- Remove exemptions from third-party liability for prenatal services based on the federal Bipartisan Budget Act of 2018.
- Update the minimum community spouse resource allowance to allow for the federal amount and link to the federal references so the amounts do not need to be updated annually.
- Add language to better describe the income considered in determining client participation.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 28, 2021. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **75.5(3)“d”** as follows:

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized spouse and the community spouse as of the first moment of the first day of the month of the spouse’s first entry to a medical facility. However, if one-half of the resources is less than ~~\$24,000~~ the minimum set by the federal spousal impoverishment provisions, then the greater of \$24,000 or the federally established minimum shall be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds the maximum amount allowed as a community spouse resource allowance ~~by Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. § 1396r-5(f)(2)(A)(i))~~ under the federal spousal impoverishment provisions, the amount over the maximum shall be attributed to the institutionalized spouse. (The minimum and maximum limit is limits are indexed annually according to the consumer price index.) The federal spousal impoverishment provisions are defined at Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. §1396r-5(f)(2)(A)(i)).

If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred shall be the amount attributed to the community spouse if it exceeds the specified limits above.

ITEM 2. Amend subrule 75.16(1), introductory paragraph, as follows:

75.16(1) Income considered in determining client participation. The department determines the amount of client participation based on the client’s total monthly income. Income is determined pursuant to the supplemental security income program under Title XVI of the Social Security Act (42 U.S.C. §396r-5(f)(2)(A)(i)) with the following exceptions:

ITEM 3. Amend rule ~~441—~~**75.25(249A)**, definition of “Pay and chase,” as follows:

“Pay and chase” shall mean that the state pays the total amount allowed under the agency’s payment schedule and then seeks reimbursement from the liable third party. The pay and chase provision applies to Medicaid claims ~~for prenatal care~~, for preventive pediatric services, and for all services provided to a person for whom there is court-ordered medical support.

ITEM 4. Amend paragraph **80.3(2)“a”** as follows:

a. The department pays the total amount allowed under the Medicaid payment schedule and then seeks reimbursement from the liable third party. This “pay and chase” provision applies to claims for:

~~(1) Prenatal care,~~

(2) (1) Preventive pediatric services, and

(3) (2) All services provided to a person for whom there is court-ordered medical support.